




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Tourism and Culture Division**

<b>TO:</b>	Chair and Members Hamilton Municipal Heritage Committee
<b>COMMITTEE DATE:</b>	September 15, 2022
<b>SUBJECT/REPORT NO:</b>	Register Listing Objections in Beasley Neighbourhood (PED22135(a)) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Alissa Golden (905) 546-2424 Ext. 4654
<b>SUBMITTED BY:</b>	Carrie Brooks-Joiner Director Tourism and Culture Planning and Economic Development
<b>SIGNATURE:</b>	

## RECOMMENDATION

- (a) That Council receive the notices of objection, attached as Appendix “A” to Report PED22135(a), from the owners of 188 Mary Street and 43 Robert Street, Hamilton, objecting to the notices of Council’s decision to list the non-designated properties on the Municipal Heritage Register (Register) under Section 27 of the *Ontario Heritage Act*,
- (b) That Council continue to include 188 Mary Street and 43 Robert Street, Hamilton, on the Municipal Heritage Register as non-designated properties that Council believes to be of cultural heritage value or interest, pursuant to Section 27(8) of the *Ontario Heritage Act*.

## EXECUTIVE SUMMARY

This Report addresses two notices of objection under Section 27(7) of the *Ontario Heritage Act* from owners of properties listed on the Municipal Heritage Register as part of the Beasley Neighbourhood Built Heritage Inventory (Beasley Inventory), approved by Council on June 22, 2022 (see Report PED22135). Register listing objections have been received for 188 Mary Street and 43 Robert Street, Hamilton. Staff recommend that Council keep both properties listed on the Register.

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## **FINANCIAL - STAFFING - LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: The *Ontario Heritage Act* enables Council to list non-designated properties that it believes to be of cultural heritage value or interest on the Register, after consultation with the Hamilton Municipal Heritage Committee (HMHC). Under Section 27(7) of the *Ontario Heritage Act*, an owner can object to a property being included on the Register after receiving notice of it being listed. The owner's objection should identify the reasons for the objection and all relevant facts. Council must consider the objection, along with HMHC's advice, and decide whether to keep the property listed on the Register or to remove it. The owner must be given notice of a Council's decision on the consideration of their objection within 90-days of the decision.

## **HISTORICAL BACKGROUND**

Staff reported on the findings of the community-led Beasley Inventory project as part of Report PED22135, which was considered by the Hamilton Municipal Heritage Committee at their meeting on June 10, 2022. On June 22, 2022, Council approved the project recommendations and directed staff to list 413 properties of cultural heritage value or interest in the Beasley Neighbourhood on the Register. The owners of the subject properties were notified of the draft recommendations to list their properties in a letter dated March 31, 2022. As required under Section 27 of the *Ontario Heritage Act*, staff also notified owners of Council's decision to list their properties in letters dated July 8, 2022. At the time of writing this Report, staff received two formal listing objections in response to the notices for the properties located at 188 Mary Street and 43 Robert Street, Hamilton.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The recommendations of this Report are consistent with Provincial and Municipal legislation, policy and direction, including:

- Determining the cultural heritage value or interest of a property based on design and physical value, historical and associative value and contextual value criteria (*Ontario Heritage Act, Ontario Regulation 9/06*);
- Ensuring significant built heritage resources are conserved (*Provincial Policy Statement, 2020, Sub-section 2.6.1*); and

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- Identifying cultural heritage resources through a continuing process of inventory, survey and evaluation, as the basis for wise management of these resources (*Urban Hamilton Official Plan*, Section B.3.4.2.1(b)).

## **RELEVANT CONSULTATION**

### **External**

- Property owners

### **Internal**

- Councillor, Ward 2

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

When considering a property owner's objection to listing, it is important to consider the purpose of the Register. The Register is a heritage conservation management tool under the *Ontario Heritage Act*. It is an administrative record that includes non-designated properties identified by Council as being of cultural heritage value or interest. Consultation with the Hamilton Municipal Heritage Committee and a Council resolution is required to include, or remove, a property from the Register.

Listing on the Register is a way to recognize a property's heritage value or interest to a community. From a property owner's perspective, listing on the Register does not prevent an owner from making changes or constructing additions to existing buildings, nor does it require any additional heritage approvals (like heritage permits) to do so as part of the regular Building Permit process.

### **Interim Demolition Protection**

The main intent of listing properties on the Register is to flag properties of heritage interest to promote their conservation and retention. An owner of a listed property is required to give 60-days notice to the City of their intention to demolish or remove a building or structure on their property, as per Section 27(1.2) of the *Ontario Heritage Act*. The demolition or removal of any building or structure is prohibited during this time period.

Listing on the Register does not prevent demolition, but the 60-day period allows staff the opportunity to discuss conservation options for the property should a notice of intention to demolish be received, including discussions with the owner respecting retention, adaptive re-use and financial incentives, and photo-documentation of the property prior to demolition. In the case of significant heritage buildings, the 60-day

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delay could allow Council time to consider issuing a notice of intention to designate to prevent demolition. Additionally, if demolition of a listed property is proposed as part of a development application under the *Planning Act*, staff may require that a Cultural Heritage Impact Assessment be completed in support of the application in order to confirm the cultural heritage value or interest of the property, assess the impact of the proposed demolition and explore alternatives for conservation.

Heritage buildings are finite resources. Once they are demolished they cannot be recovered. To remove a property from the Register without further consideration of the property's cultural heritage value would not be consistent with intent of the Register. Staff do not recommend that any properties be removed from the Register based on an owner's objection alone. To warrant removal from the Register, staff are of the opinion that it must be demonstrated that the property no longer retains any tangible cultural heritage value or interest as per *Ontario Regulation 9/06*.

### **Register Objections**

Staff received two formal notices of objection to Council's decision to list properties on the Register as part of the Beasley Inventory for 188 Mary Street and 43 Robert Street, Hamilton. The owner objection notices are attached as Appendix "A" to Report PED22135(a). The two objecting owners cited concerns that they did not receive notice of the draft recommendation to list their property to allow them the opportunity to raise their opposition ahead of Council's decision to list. Staff sent notice to the owners of the draft recommendations for their properties in letters dated March 31, 2022. To date, the letters for the two subject properties have not been returned as undelivered. The draft recommendations were also considered at the public meeting of the HMHC on June 10, 2022. Concerns over the public access to information about their property were also raised by the owners. Neither owner provided facts or information refuting the cultural heritage value or interest of their property.

The two subject properties were added to the Register because they were classified as Character-Supporting Resources as part of the Beasley Inventory and Council believed them to be of cultural heritage value or interest because they supported the character of the historic Beasley Neighbourhood (see Report PED22135). Additional criteria were also identified in the preliminary evaluations for each property, including design and physical value and historical and associative value, attached as Appendix "B" to Report PED22135(a).

Staff have determined that both the properties retain physical cultural heritage value or interest and recommend that they remain listed on the Register.

## **ALTERNATIVES FOR CONSIDERATION**

Under Section 27 of the *Ontario Heritage Act*, listing a property on the Register is a discretionary activity on the part of Council. Council, as advised by its Municipal Heritage Committee, must consider an owner's notice of objection to a Register listing and decide whether it should continue to be included on the Register or whether it should be removed.

### **Removing from the Register**

Council may decide to remove one or more properties from the Register. By removing a property of cultural heritage value or interest from the Register, it would no longer have interim protection from demolition under the *Ontario Heritage Act* which requires the owner to give 60-days advance notice to the municipality of their intention to demolish or remove a building or structure from the property. Staff do not recommend this alternative.

## **ALIGNMENT TO THE 2016 - 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED22135(a) - Notices of Objection

Appendix "B" to Report PED22135(a) - Preliminary Heritage Evaluations

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